

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

June 10, 2004

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. **Public Workshop – Downtown Anchorage, Switzer Creek, and B Street / Broadway Piers TMDLs** *(Brennan Ott)*

Sediments in San Diego Bay in the vicinity of Downtown Anchorage, B Street/Broadway Piers, and near the mouth of Switzer Creek are contaminated with anthropogenic chemicals. These sites were reported to contain degraded benthic macroinvertebrate communities, and samples from these areas have been demonstrated to be toxic to various marine invertebrate species in laboratory toxicity tests. As a consequence, these sites have been identified as areas of impaired water quality. In response to this contamination, the Regional Board has initiated efforts to develop a Total Maximum Daily Load (TMDL) for each of these sites in order to reduce ongoing loadings of contaminants of concern. The Regional Board, with the assistance of the Unified Port of San Diego, City of San Diego, San Diego Bay Council, and other stakeholders, developed and implemented a study to assess these sites and acquire the information necessary to identify the appropriate response to the impairments.

The Regional Board conducted a public workshop on the Downtown Anchorage, Switzer Creek, and B Street / Broadway Piers TMDLs on May 13, 2004. The purpose of the public workshop was to present the results from the Phase I study (initial site assessment of sediment chemistry, sediment toxicity, bioaccumulation, and benthic community), engage the stakeholders early in the process, answer questions, and receive public comments. Approximately 20 people attended the workshop, including representatives from the Unified Port of San Diego, the City of San Diego, environmental organizations and the public. Fieldwork for Phase II, designed to study temporal trends, is already underway.

2. **Regional Board Student Intern Wins Award for Senior Thesis** *(Julie Chan)*

Scott Lowe, student intern in the Site Mitigation and Cleanup Unit and graduating senior, won the award for Thesis Defense of the Year from the Department of Geological Sciences at San Diego State University. Scott's thesis was titled "Spatial Variation of Hydraulic Conductivity within Streambed Material in Rainbow, California." His work involved applying statistical and geostatistical models to data sets to assess the magnitude of variability in hydraulic conductivity throughout part of the Rainbow Creek streambed system. Scott follows in the footsteps of Sean McClain, a former Regional Board student intern who won this award in 2002.

3. Executive Officer Outreach to Industrial Dischargers (*John Robertus*)

John Robertus attended the Industrial Environmental Association luncheon held on May 19 as their guest speaker. He presented an overview of current issues such as Regional Board membership, storm water permit activities and recent enforcement actions by the Board. There were about 50 people in attendance and the luncheon provided an excellent opportunity to discuss water quality concerns with many of the industrial sector representatives in attendance.

John Robertus participated as a panel member and speaker at the United Defense annual Environmental, Health and Safety Conference sponsored by Southwest Marine Shipyard in San Diego on May 19 & 20, 2004. The panel session held on May 20, focused on local environmental regulations. John Robertus provided an overview of California water quality regulations and he outlined several suggestions for attendees to consider improving long term compliance with federal, state and local environmental regulations concerning protection of water quality. There were about 30 attendees who represented industrial organizations from many states. The panel also included Mr. Mike Dorsey from the County of San Diego Environmental Health Department.

4. Bioassessment and Biocriteria Short Course at SETAC Annual Meeting (*Dave Gibson*)

On May 21, 2004, Dave Gibson presented a full day short course on bioassessment and biocriteria at the 2004 Annual Meeting of the Southern California Regional Chapter of the Society of Environmental Toxicology and Chemistry (SETAC). The Annual Meeting was held at Pt. Loma Nazarene University. Over twenty water quality specialists and consultants attended the short course from several southern California agencies, districts, and consulting firms. The course included an extensive review of the rationale behind aquatic bioassessment, the most common methods of bioassessment used in the Western United States, the development and validation of two southern California Indices of Biotic Integrity, and the ongoing effort to develop biological criteria for California. The course also included discussion on the uses of bioassessment data and the recently developed Southern California Coastal Index of Biotic Integrity (SCCIBI) by the Regional Board and the Department of Fish and Game Office of Spill Response and Prevention. The SCCIBI, developed by DFG and USGS with support from the Regional Board and the U.S. Forest Service, has been peer reviewed for publication in the journal *Environmental Monitoring* (in press). The presentations are posted on the Regional Board website at: <http://www.swrcb.ca.gov/rwqcb9/programs/bioassessment.html>

5. SWAMP Presentation to the San Dieguito Watershed Stewardship Initiative Group (*Dave Gibson*)

On May 27, 2004, Dave Gibson gave a presentation to the San Dieguito Watershed Stewardship Initiative Group (WSIG) on the Regional Board's Surface Water Ambient Monitoring Program (SWAMP). In 2003, the San Dieguito watershed was sampled as part of SWAMP at five locations for general water quality, pesticides, herbicides, and PCBs/PAHs, aquatic and sediment toxicity, bioaccumulation, and bioassessment. The sample sites on upper and lower Santa Ysabel Creek, Green Valley Creek, Cloverdale Creek, and the San Dieguito River were selected using a tributary approach. Samples

were taken at these sites four times during the wet and dry seasons to characterize the ambient water quality and biological condition of the streams in the watershed. Collaboration with watershed partners including the San Diego Stream Team and City and County of San Diego was an important part of the SWAMP strategy in the San Dieguito watershed. The presentation included discussion of the objectives and rationale behind the SWAMP program, the technical aspects of water quality and bioassessment in the watershed, the partnership approach, and a discussion of preliminary water quality data from SWAMP and the results from the recently developed Southern California Coastal Index of Biotic Integrity for the watershed.

6. San Diego River Conservancy Meeting—May 21, 2004 (*Michael McCann*)

The Governing Board of the San Diego River Conservancy (SDRC) met May 21 to hear the first reports from the conservancy's newly appointed Executive Officer, Deborah Jayne. The Governing Board acknowledged the timely assistance provided to the SDRC by the San Diego Regional Board and discussed obtaining permanent administrative support for the SDRC. The Board identified land acquisition in the watershed as an immediate, high priority for the conservancy. The next meeting of the SDRC Governing Board will be July 9 at the San Diego Regional Board Office.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) (*Charles Cheng, David Hanson, Bryan Ott, Victor Vasquez*) (*Attachment B-1*)

From May 1 to May 31, 2004, there were 21 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 10 of these spills reached surface waters or storm drains of which one resulted in closure of recreational waters. Of the total number of overflows from public systems, six were 1,000 gallons or more.

Four sewage overflows from private property in May were also reported; one of these overflows was 1,000 gallons or more; two reached surface waters or storm drains; and none resulted in closure of recreational waters.

Only trace rainfall was recorded at San Diego's Lindbergh Field in May 2004. For comparison, in April 2004, 0.60 inches of rainfall were recorded, and 23 public SSOs were reported. Also for comparison, in May 2003, 0.30 inches of rainfall were recorded and 25 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through May 31, 2004, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2000-01. From July 1, 2003 through May 31, 2004, approximately 122 billion gallons of sewage was conveyed through the Region's sewage collection systems of which approximately 8.1 million gallons was spilled (0.0066%).

For additional information on SSOs in FY 2002-2003 see the table entitled "Public SSO Statistics Summary for FY 2002-2003 (July 1-June 30)" attached to the February 2004 Executive Officer's Report (available on the Regional Board's website www.swrcb.ca.gov/rwqcb9).

No Notices of Violation for SSOs were issued during the month of May 2004.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in May 2004
(Stacey Baczkowski)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a section 404 permit from the Army Corps of Engineers, and propose filling or armoring of creeks and streams.

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.swrcb.ca.gov/rwqcb9/programs/401cert.html>.

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION/WATERBODY	CERTIFICATION ACTION ¹
5/4/04	Hines Nurseries	Rainbow Creek Under crossing	Install three pipeline under crossings beneath Rainbow Creek. (Deluz H.A.)	Conditional
5/5/04	Cameo Homes	Palomar Road Widening for Davis/Gross Ranch Properties	Palomar Road will be widened by approximately 30 feet along a 1,060-linear foot stretch of existing road at its easternmost section. (Murrieta H.A.)	Conditional
5/6/04	City of San Diego, Metropolitan Wastewater Department	Lower Rose Canyon Emergency Sewer Repairs	Emergency cleaning and repair of approximately 3,734 linear feet of Old Rose Creek (Tecolote H.A.) trunk sewer pipe from existing manholes.	Conditional
5/7/04	Port of San Diego	Palm Avenue Storm Water Diversion System	Relocation and upgrade of the storm water pump station, reconfiguration and replacement of the storm drain lines leading to and from the pump station, and installation of piping associated with the low-flow diversion system. (Otay Valley H.A.)	Conditional
5/11/04	Shea Homes, Inc.	Powers Property - TTM 29214	Development of 375 residential lots and 26.3 acres of open space on the 160-acre Powers property. (Murrieta H.A.)	Conditional
5/13/04	Highpoint Communities	Denha Residential	Residential development on approximately 84.34 acres. (Santa	Conditional

		Development - TM 29473	Margarita H.U.)	
5/13/04	Headlands Reserve, LLC	Headlands Development and Conservation Plan	Development of 125 single family residential lots and a maximum 110,750 s.f. of visitor/recreational commercial land uses at the corner of Green Lantern and Pacific Coast Highway. (Dana Point H.S.A.)	Conditional
5/14/04	H.G. Fenton Company	Fox-Miller Property Project	Grading of four commercial lots and installation of sewer and storm drains on the 52.23-acre Fox property. (Agua Hedionda H.A.)	Conditional
5/14/04	Jeffries Ranch, LLC	Jeffries Ranch Project	Construction of a residential development consisting of 44 single- family dwellings on an 82.5 acre site, of which 53 acres will be dedicated to open space. (Lower San Luis Rey H.A.)	Conditional
5/22/04	Marc E. Adams	Contractors Yard	Construction of contractors yard on 1.3 acre lot (Santa Margarita River)	Conditional
5/27/04	California Department of Transportation (Caltrans)	125 South Toll Road	Impacts to four additional vernal pools identified during pre- construction surveys. (Lower Sweetwater H.A.)	Time Expired
5/27/04	SD Marina, LLC	Kona Kai & Kona Marina	Remove and replace existing metal piles and damaged concrete pile with concrete piling. Replace existing wood floating dock with concrete dock system. Install public sewage pump out station and public "dock and dine" float. (San Diego Bay)	Low Impact
5/28/04	Vicar Ventures, LLC	High Meadow Ranch Project	Installation of roads (which have previously been graded), an equestrian trail, a sewer system, housing pads, and a storm drain system. (San Vicente H.A.)	Conditional

¹ Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines.

3. San Diego Municipal Storm Water Permit Update (Phil Hammer)

The Regional Board is currently in the process of following-up on the compliance evaluations of the Copermittees' urban runoff management programs, which were conducted in October 2003. All follow-up activities for compliance evaluations conducted prior to October 2003 have already been completed by the Regional Board. During follow-ups to compliance evaluations, the Regional Board typically meets with various city representatives to discuss the findings of the compliance evaluation report. The focus of the meetings is to determine that all program deficiencies and potential permit violations identified in the compliance evaluation report have been corrected. To ensure that all deficiencies and potential violations have been corrected, the city representatives responsible for the corrections are interviewed and various sites are inspected.

The follow-up with the City of La Mesa was conducted on May 24 and 26, 2004. It was found that the majority of deficiencies and potential violations noted during the compliance evaluation had been corrected. Several corrective measures, however, were still under development and had yet to be fully implemented. These issues included standardization of the development review process and improved oversight of construction sites. To ensure that these issues are addressed, the Regional Board has directed the City of La Mesa to report on its corrective actions by July 2004.

The next compliance evaluation follow-up will be conducted for the City of Imperial Beach, and is scheduled for June 3, 2004.

4. Grants Update *(David Gibson)*

Prevailing Wage Issue

The California Assembly passed AB 2690 to address the requirement under the Labor Code for payment of prevailing construction wages to volunteers working on public works projects of \$1,000 or more. As passed by the Assembly, the legislation provides definitions for "volunteer" and "volunteer coordinators" and establishes criteria to define volunteer service in public works projects. AB 2690 also includes a provision to apply these definitions retroactively to otherwise covered work concluded on or after January 1, 2002. The legislation is now in committee in the Senate. Pending approval of the legislation, grant agreements now include a certification statement to be signed by the grantee acknowledging the requirement to pay the prevailing construction wage to volunteers on public works projects (i.e. the grant project) and signifying their intent to use or not use volunteers on the project. All of the Region 9 Proposition 13 Phase III project directors have complied with this requirement.

Proposition 50 Integrated Regional Water Management Program

Draft guidelines have been developed for the 2004 Request for Proposals for the Proposition 50 Chapter 8 Integrated Regional Water Management (IRWM) grant program and are under review by the Regional Boards and the Department of Water Resources (DWR). The draft guidelines developed for the IRWM program encourage integrated, multiple-benefit projects. The draft guidelines include a preference for proposed projects that contribute expeditiously and measurably to the long-term attainment and

maintenance of water quality standards. Preference will also be given under the draft guidelines for proposals that eliminate or significantly reduce pollution into impaired waters and sensitive habitat areas, including areas of special biological significance. The draft guidelines require that a proposed project include a monitoring component that allows the integration of data into statewide monitoring efforts, including, but not limited to, the Surface Water Ambient Monitoring Program (SWAMP) carried out by the SWRCB and Regional Boards.

Collectively, the IRWM grant program will make 381 million dollars available through the SWRCB and DWR for competitive grants for projects to protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water (Table 1). The first Request for Proposals of 10 million dollars is scheduled for September 2004 will be directed at planning projects for up to \$500,000. Proposals will be due in November. Subsequently, the balance of the IRWM will be directed at implementation projects in January 2005. The guidelines will be posted for a 30-day review and comment in July 2004 on the DWR and SWRCB websites:

SWRCB - <http://www.swrcb.ca.gov/funding/irwmgp/index.html>

DWR - <http://www.grantsloans.water.ca.gov>

Proposition 50 Chapter 8 programs require outreach to disadvantaged communities to promote access and participation in the public meetings for the draft guidelines and criteria. Non State fund matching contribution by applicants will be required and will be evaluated on a sliding scale (proposals with larger matches will be more competitively scored). The SWRCB may not waive the matching requirement, but will not require it from disadvantaged communities. In addition, no project financed by this section shall include an on-stream surface water storage facility or an off-stream surface water storage facility other than percolation ponds for groundwater recharge in urban areas. No river or stream channel modification project whose construction or operation causes any negative environmental impacts may be financed unless those impacts are fully mitigated. The costs of mitigation or enhancement may be included in the project costs eligible for funding under Chapter 8. Grants may be awarded for proposals that include one or more of the following elements:

- Programs for water supply reliability, water conservation, and water use efficiency.
- Storm water capture, storage, treatment, and management.
- Removal of invasive non-native plants, the creation and enhancement of wetlands, and the acquisition, protection, and restoration of open space and watershed lands.
- Non-point source pollution reduction, management, and monitoring.
- Groundwater recharge and management projects.
- Contaminant and salt removal through reclamation, desalting, and other treatment technologies.
- Water banking, exchange, reclamation, and improvement of water quality.

- Planning and implementation of multipurpose flood control programs that protect property; and improve water quality, storm water capture and percolation; and protect or improve wildlife habitat.
- Watershed management planning and implementation.
- Demonstration projects to develop new drinking water treatment and distribution methods.

In addition to the aforementioned matching funds requirement, a IRWM grant program project must be consistent with an adopted IRWM plan designed to improve regional water supply reliability, water recycling, water conservation, water quality improvement, storm water capture and management, flood management, recreation and access, wetlands enhancement and creation, and environmental and habitat protection and improvement. Specific criteria for IRWM plans will be posted on the DWR website in June. At a minimum, IRWM plans shall address the major water related objectives and conflicts of the watersheds in the region covered by the plan, including water supply, groundwater management, ecosystem restoration, and water quality elements, and may include other elements.

Table 1: Proposition 50 IRWM Total Bond Funds Available (\$500 million)

	DWR	SWRCB
Total Funds Available	\$250,000,000	\$250,000,000
Program Delivery (5%)	-\$12,500,000	-\$12,500,000
Bond Issuance/Statewide Costs (3.5%)	-\$8,750,000	-\$8,750,000
FY 02-03 Fund Shift – Governor's Drought Program ¹	-\$6,400,000	\$0
Groundwater Recharge Grants ²	-\$20,000,000	\$0
Comprehensive Groundwater Monitoring Program	\$0	-\$45,750,000
Total Funds Available for IRWM Grants – by Agency	\$202,350,000	\$183,000,000
Total Funds Available for IRWM Grants	\$381,100,000	

1) Funds awarded for Local Groundwater Assistance Grants.

2) \$10 million committed in January 2004.

Proposition 50 Agricultural Water Quality Grant Program (AWQCP)

The State Water Resources Control Board (SWRCB) has issued the Draft Agricultural Water Quality Grant Program (AWQGP) Guidelines for public review and comment.

The guidelines are posted on the SWRCB website at

<http://www.swrcb.ca.gov/funding/awqgp/index.html>. Comments on the draft AWQCP Guidelines are due by 5:00 p.m. Friday, June 25, 2004. The SWRCB is scheduling workshops in Sacramento on Tuesday, June 15, 2004 and San Luis Obispo on Thursday, June 10 to receive public comments.

Approximately \$20.5 million in grant funding is available through Propositions 40 and 50. Additional funding of approximately \$5.5-\$6 million may also be available from Clean Water Act Section 319(h) funds in the federal fiscal year of 2004/2005. In addition, the State Senate voted on May 19, 2004 to add another \$20 million from Prop

50 to the AWQCP and to establish a \$5 million Dairy grant program from the SWRCB's Prop 50 funds. This collectively provides approximately \$45 million for the AWQCP.

The AWQCP will fund projects that will reduce the effects of discharge and runoff from irrigated agricultural land to waters of the State. Eligible projects include those that: 1) will improve water quality derived from irrigated crop lands through implementation of management practices, monitoring, demonstration projects, research, education and outreach; 2) will reduce pollutants in agricultural drainage through water reuse, integrated management, or treatment; and 3) are eligible to provide matching funds for federal agricultural water quality grant programs. In addition, all projects funded through the AWQCP must be consistent with applicable adopted local watershed management plans where they exist, and SWRCB and RWQCB Plans and Policies.

All proposed projects must provide measurable long-term water quality benefits, include an effectiveness and assessment component, and comply with the California Environmental Quality Act (CEQA), where applicable. Proposed AWQGP projects must include a monitoring component to assess project effectiveness that is compatible with the Surface Water Ambient Monitoring Program (SWAMP). Successful recipients will be required to report project information and data to the SWRCB and the appropriate RWQCB. Eligible applicants include non-profit organizations (as defined in 26 U.S.C. Section 501(c)(3)) and public agencies. The SWRCB, RWQCBs and USEPA will seek projects that will most effectively address water pollution from these sources by integrating some or all of the following components to increase overall project effectiveness:

- Pollution Prevention
- [Management Practices](#) (See Appendix D)
- Demonstration Projects
- Effectiveness Monitoring and Evaluation
- Demonstration of Water Quality Improvement
- Research in Developing Additional Successful Management Practices
- Education and Outreach
- Information Sharing/Technology Transfer
- Technical Assistance to Implement Management Practices, and
- Problem Definition Monitoring.

Projects that address impaired water bodies by implementing established TMDLs or TMDLs under development, and are consistent with watershed plans, are encouraged for Proposition 40 and 50 funds, and required in order to be eligible for CWA Section 319 funds.

The AWQCP Request for Proposals will be released in August 2004. Proposals will be due in late 2004 (date not yet determined). Projects funded from Proposition 40 must be completed by September 30, 2008. Projects funded by Proposition 50 AWQGP must be completed by March 31, 2007. Projects funded with Federal Section 319 monies must

be completed within a three-year time period and must start after September 1, 2005, and end no later than December 31, 2009. The SWRCB staff will notify all successful grant recipients of the applicable deadlines.

5. 14-Mile Border Infrastructure System (*Phil Hammer*)

As previously reported, the Regional Board has received an application for 401 Water Quality Certification from the U.S. Border Patrol for the 14-Mile Border Infrastructure System, which is essentially a 14-mile fencing structure along the U.S./Mexican Border. A 401 Water Quality Certification is required when a project proposes to discharge fill material to waters of the U.S. The Border Infrastructure System project crosses numerous watercourses and wetlands, and proposes to fill approximately 10 acres of waters of the U.S., including riparian areas and coastal salt marsh.

Before a 401 Water Quality Certification can be issued, the requirements of the California Environmental Quality Act (CEQA) must be met. The Regional Board has provided the U.S. Border Patrol with an extensive and detailed letter which identifies information required by CEQA, as well as information needed for the 401 Water Quality Certification application to be found complete. On May 26, 2004, the Regional Board met with the U.S. Border Patrol to discuss the letter. At the meeting, the Regional Board clarified the CEQA requirements and the different options that can be pursued to meet the requirements.

It is our understanding that the U.S. Border Patrol is working towards meeting the requirements of CEQA and providing the requested information. Once all of the notification and information requirements of CEQA have been met, it is expected that the CEQA document will be brought before the Regional Board for its consideration. If the CEQA document is approved by the Regional Board, then at a later date the 401 Water Quality Certification can then be brought before the Regional Board for consideration.

6. Laguna Beach Local Coastal Plan Update (*Jeremy Haas*)

At the May 2004 Board meeting in Laguna Beach, Mr. Walker Reed requested that the Regional Board coordinate review with the California Coastal Commission of Laguna Beach's proposed amendment of its Local Coastal Plan (LCP). Amendments to the LCP must be approved by the Coastal Commission. The amendment was proposed following the City's review of Regional Board Order No. R9-2002-01 (Municipal Storm Water Permit), which requires that each permittees' General Plan or equivalent plan include water quality and watershed protection principles and policies to direct land-use decisions and require implementation of consistent water quality protection measures for development projects. The Order did not require specific language in the General Plans, but did provide the Permittees with eight examples of water quality and watershed protection principles and policies to be considered. In the past, the Regional Board has met with the Coastal Commission to discuss the Storm Water Permit requirements and ramifications for LCP amendments.

The Regional Board's expectation is that each Permittee update its General Plan appropriate to local conditions. In the case of Laguna Beach and other coastal communities, such updates must be consistent with the Coastal Act. The City of Laguna Beach essentially chose to include the Order's examples verbatim in its LCP amendment request to the Coastal Commission. In response, the Coastal Commission requested additional modifications to make them consistent with and adequate to carry out the provisions of the Coastal Act. Since then, City and Coastal Commission staff have worked to refine the proposed water quality principles and policies, which have been submitted to the Commission.

A description of the LCP amendments and any associated water quality-related ordinance changes will be included in the City's next municipal storm water program annual report. We will then review it to determine if the modifications meet the intent of the Order. Because the City used our examples as a starting point, from which the Coastal Commission sought additional clarifications, we anticipate that the City's plan will address the elements of the Order.

7. San Clemente Urban Runoff Management Fee (*Jeremy Haas*)

Following a presentation at the May 12, 2004 Regional Board meeting by the Mayor Susan Ritschel of the City of San Clemente, the Board asked for more information about the City's Urban Runoff Management Fee that was approved by voters in October 2002. The City conducted a mail ballot election of 17,000 property owners and received 8,168 votes. The measure passed by a margin of 56.6 percent to 43.4 percent.

The fee initiative began with the City's proposal to increase an existing storm drain fee to \$4.39 for homeowners whose streets are swept privately and \$5.02 for homeowners on streets swept by the City. Business properties and undeveloped but graded properties are assessed a fee based on acreage. The existing fee charged households \$2.96 per month for storm drain services and businesses paid a fee based on square footage. To date, no other City in the San Diego Region has sought to raise fees for storm water services via a public vote.

The increased San Clemente fee was targeted at implementing the City's Urban Runoff Management Plan, which was developed in 2001 in expectation of the issuance of the 3rd Term Municipal Storm Water Permit (Regional Board Order No. R9-2002-01). In proposing the initiative, the City prepared an itemized budget document outlining expected costs for each program element. The Plan identifies the following four program elements: 1) NPDES permit compliance; 2) Structural treatment; 3) Transferred and other new expenditures to the storm drain fund; and 4) Increased street sweeping.

The Council had considered raising both fees, but decided to pursue a public vote after the Sixth Appellate District Court declared a City of Salinas storm-drain fee was in violation of Proposition 218. Prop. 218 is a 1996 California voter initiative that requires cities to win voter approval before increasing property-based fees or adding new ones, with the exception of water and sewer services. The appellate court concluded that

although the term “sewer services” in Prop. 218 was ambiguous, it was compelled to construe the term in its most common meaning applicable to sanitary sewage. In 2003 Assembly Constitution Amendment 10 (Harman) proposed adding storm water and urban runoff management to the allowable exemptions of Prop 218, but it is now on inactive file status.

8. Extension of Foothill Toll Road South, State Route 241 (*Jeremy Haas*)

At the May 2004 Regional Board meeting, Ms. Gail Prothero spoke during the public forum and requested the Board carefully review the proposed extension of the Foothill Toll Road South in the County of Orange. On May 7, 2004 the Foothill/Eastern Transportation Corridor Agency (TCA), the government agency that operates the Foothill (State Route 241) and Eastern (State Routes 241, 161, and 133) Toll Roads in southern and eastern Orange County, released for public review the Environmental Impact Statement and Subsequent Environmental Impact Report (EIR) for the proposed southern extension of the Foothill Toll Road, a project known as Foothill-South. The project would consist of a 9-mile to 16-mile long toll road connecting existing SR-241 from Oso Parkway, near Mission Viejo, to Interstate 5 near the San Mateo Creek overpass or an intermediate point at an intersecting arterial within the City of San Clemente.

On May 7, 2004 the U.S. Army Corps of Engineers (USACE) released a Public Notice (PN) of an application for a Department of the Army Permit and is now soliciting comments from agencies and interested parties. According to the PN, six toll road alternative alignments and two additional transportation improvement alternatives are under consideration. The alternatives would impact between 5 and 11 miles of stream channels considered Waters of the U.S. and 32 to 60 acres of riparian ecosystems. The PN notes that the applicant plans to submit to the Regional Board an application for Section 401 Water Quality Certification after selection of a preferred alternative alignment. The TCA is accepting comments on the EIR until August 6, 2004, and the USACE is accepting comments on the PN until July 7, 2004. The lack of funding will prevent the Regional Board from reviewing the EIR and providing comments to the USACE in advance of receiving a Section 401 application. The Board will be updated in a future EO report once the 401 application has been reviewed.

9. May 12, 2004 Public Forum (*John Odermatt*)

Ms. Gayle Prothero requested that the Regional Board consider impacts to public health and the environment from a leaking underground storage tank (UST) site located next to a new private high school site in San Juan Capistrano. On May 10, 2004, the Regional Board staff received an email from Dr. Eleanora (Norrie) Robbins including an attached letter regarding her comments on the Draft EIR (Draft EIR) for construction of a proposed sports complex at the Junipero Serra High School - South Campus, located in San Juan Capistrano. Dr. Robbins' letter was addressed to the City of San Juan Capistrano Planning Department informing them of her concerns and opinions about the adequacy of the site investigation and analysis of contaminant pathways as these topics related the to proposed construction project at the Junipero Serra High School - South Campus.

Dr. Robbins also provided the City of San Juan Capistrano with the following two recommendations:

- If the site is permitted for a school sports complex, it is very important for the school administration to understand that the children should be kept off the fields for at least a week after each rain because of potential for release of volatile compounds into the air.
- If the site is permitted for a school sports complex, the Orange County Health Care Agency should use this as a controlled experiment, and follow children through time (15 years and 30 years after exposure to known carcinogens) to get some publishable data on the real cancer potential of having children respiring over a hydrocarbon contaminant plume.

The Regional Board staff queried the GEOTRACKER database and found that up to four leaking UST sites could be located in proximity to the Junipero Serra High School - South Campus. The Orange County Local Oversight Program (LOP) is identified as the lead agency for all of the existing leaking UST cases identified in the GEOTRACKER database. On May 13, 2004, the Regional Board staff sent the information (via email) provided by Dr. Robbins and a list of local leaking UST cases (from GEOTRACKER) to the Program Manager of the Orange County LOP (Ms. Karen Hodel). During a follow-up telephone conversation, the LOP staff indicated they were aware of the concern and had previously spoken with Dr. Robbins. The LOP staff also indicated they have received a workplan from the Responsible Party and that that the proposed extended site investigation will probably include a part of the school property. As part of their normal oversight work for the leaking UST case, the Regional Board staff anticipates that the LOP staff will follow-up on the concerns expressed to the Regional Board by Ms. Prothero and identified in Dr. Robbins' letter to the City of San Juan Capistrano.

10. Update on Wildfire Solid Waste Management (John Odermatt) (Attachment B-10)

The Regional Board LDU staff remains in close contact with landfill operators and other State and local agencies (City and County) as they continue to work through various solid waste management issues associated with the cleanup effort.

To date, the management and disposal of wildfire solid wastes in San Diego County has been reported to the Regional Board as follows:

City of San Diego: West Miramar Landfill - as of April 30, 2004; their records indicate approximately 17,943 tons of fire wastes. The City staff also provided further information on this total as follows:

Source(s) of Fire Debris	Tons	Percentage (%)
City of San Diego	15,829	88%
County unincorporated areas	1083	6%

City of Poway	665	4%
City of El Cajon	354	2%
City of Escondido	12	<1%
Total =	17,943	100%

A graph of wildfire waste disposal at the West Miramar Landfill is illustrated on Attachment B-10a.

Allied Waste Inc.: Ramona, Sycamore and Otay Landfills - as of April 30, 2004, Allied Waste Inc. reports a total of 85,133 tons approximately distributed as follows:

Ramona LF – the existing facility total is 13,592 tons

Sycamore LF (east of City San Diego) – the existing facility total is 41,695 tons.

Otay LF - the existing facility total is 29,846 tons.

A graph of wildfire waste disposal at the Allied Waste facilities (Sycamore, Ramona and Otay Landfills) is illustrated on Attachment B-10b.

To date, approximately 73% of the generated wildfire wastes have reportedly been derived from County unincorporated areas while approximately 18% have come from the City of San Diego. The facilities receiving the most wildfire related wastes continue to be the Sycamore and Otay Landfills. The grand total is 103,076 tons of wildfire related wastes discharged to date and are approximately distributed as follows:

**OVERALL WILDFIRE WASTE MANGEMENT
SAN DIEGO COUNTY (Data through April 2004)**

Source(s)	Total (tons)	Percent %
County	75,172	73%
San Diego	18,258	18%
El Cajon	6,022	6%
Poway	1,857	2%
Santee	346	0%
Ramona	91	0.09%
Barona	1,116	1.08%
Escondido	156	0.15%
San Marcos	27	0.03%
Campo	11	0.01%
Pala	9	0.01%
La Mesa	7	0.01%
Carlsbad	4	0.00%
TOTALS =	103,076	100%

A graph of wildfire waste disposal data for the civilian landfills in San Diego County (Sycamore, Ramona, Otay, and West Miramar Landfills) is illustrated on Attachment B-10c.

Using staff's initial estimates compiled with data from the City of San Diego (Environmental Services Division), tempered by recent field observations and professional judgment, the LDU staff estimates that approximately 69% of the total wildfire wastes (estimated at 150,000 tons) in the San Diego County may have been discharged into local Class III MSW Landfills as of the end of April 2004. Debris removal and cleanup work in the unincorporated areas of the County (over 2,400 homes destroyed countywide) are expected to generate significantly more debris/wastes for disposal at a much slower pace, with cleanup taking place over a period of months or years. In May 2004, the Regional Board adopted Addendum No. 1 to Resolution No. R9-2003-039, "An Emergency Conditional Temporary Waiver of Statutory Requirements to File a Report of Waste Discharge and for Adoption of Waste Discharge Requirements for Management and Disposal of Solid Waste from the 2003 Wildfire Destruction in the San Diego Region", extending the expiration date of the conditional waiver until September 30, 2005.

The Regional Board LDU staff will continue to work with State and local agencies, and Landfill operators to resolve debris/waste management issues associated with Regional wildfire recovery efforts. The staff will continue update the Regional Board in future Executive Officer Reports.

11. Enforcement Action for Improper Disposal of Wildfire Debris (*John Odermatt*)
(Attachment B-11)

On May 17, 2004, the Regional Board staff received a letter from the County of San Diego Local Enforcement Agency (LEA) notifying the Regional Board of possible enforcement actions against a local resident for allegedly illegally disposing of wildfire related waste/debris at a site located in the Julian area. A copy of the letter from the LEA is included as Attachment B-11. The Regional Board staff will work closely with the County LEA to resolve this issue during the coming weeks.

12. Mission Valley Terminal: Request for Hearing From the City of San Diego (*John Odermatt*) (Attachment B-12)

On May 19, 2004, the Regional Board Executive Officer received a letter from Mayor Dick Murphy (Attachment B-12a) requesting that the Regional Board schedule a hearing during June or August to consider adoption of a cleanup and abatement Order (CAO) for remediation of pollution from the MVT facility. Another letter (Attachment B-12b) was also received from the Deputy City Manager (Mr. Richard Mendes) making a similar request. Mr. Mendes' letter indicates the City expects to provide written comments on Kinder Morgan's Evaluation of Remediation Technologies Report (received by the Regional Board on April 28, 2004). His letter indicates the City will provide their written comments in 2 to 3 weeks from the date of the letter (May 14, 2004).

The Regional Board staff intends to develop an agenda item for consideration of an addendum to CAO No. 92-01 for the meeting on November 10, 2004. The Regional Board staff also anticipates a scheduled hearing for the Regional Board to consider a petition by Shell Oil Company for issuance of separate cleanup and abatement orders for

the historical release(s) of fuel constituents at its facilities, located in proximity to the Mission Valley Terminal.

There are a number of factors that contribute to the Regional Board staff preferring the November schedule for a hearing on the addendum to CAO No. 92-01:

- According to Mr. Mendes' letter the City of San Diego intends to provide the Regional Board with written comments on Kinder Morgan's evaluation of remedial alternatives. As of June 2, 2004, the Regional Board has not received those written comments from the City of San Diego.
- The Regional Board currently funds our work on the Mission Valley Terminal through the Spills, Leaks, Investigation and Cleanup (SLIC) Program. In Region 9, our remaining allocation of SLIC resources is very limited until after July 1, 2004.
- By early June 2004, the Regional Board will issue written comments on several technical reports submitted by Kinder Morgan prior to the Public Workshop convened on May 3, 2004. The Regional Board staff and the technical consultants to the Regional Board are currently reviewing those technical reports to develop their comments.
- The staff anticipates that any response(s) from Kinder Morgan to our written comments may not be submitted to the Regional Board until late July or early August. Further, the staff anticipate meeting with our technical consultants during August to discuss the technical basis for developing the cleanup milestones and compliance dates for consideration by the Regional Board as a tentative addendum to CAO 92-01. The staff hopes to write the tentative addendum to CAO No. 92-01 and a supporting staff report during late August to early September.
- The Regional Board should notify the public of the agenda item/hearing and issue a tentative Order at least 45-days in advance of the hearing. Our estimated deadline for completing that task is September 24, 2004.

On the basis of all the events described above, it is the recommendation of the Regional Board staff to schedule the agenda item/hearing for consideration of an addendum to CAO No. 92-01 on November 10, 2004. The Regional Board Executive Officer has prepared a response letter to Mayor Murphy to communicate the anticipated schedule for the Regional Board to consider adoption of an addendum to CAO 92-01, as described above.

13. Mission Bay Landfill (Brian McDaniel and John Odermatt)

On May 21, 2004, City of San Diego Councilmember Donna Frye, the City of San Diego Environmental Services Department and the Mission Bay Landfill Technical Advisory

Committee (TAC) hosted a press conference in the South Shores Parking Lot, along Sea World Drive, to launch the beginning of an environmental assessment of the Mission Bay landfill. The City of San Diego contracted SCS Engineers to perform an environmental assessment to define the extent of the landfill's historical boundaries, analyze the levels of potential environmental contaminants beneath the surface of the landfill, and evaluate the risks that any existing pollutants might pose to human health and the surface water resources of Mission Bay.

By letter dated May 10, 2004, the Regional Board staff provided comments on the Draft Mission Bay Landfill Site Assessment Work Plan. The budget for the assessment is set at \$500,000 and includes a number of tasks: evaluation of historical photographs, completion of a geophysical survey, environmental sampling of soil, gas, and water. The final site assessment report should provide an evaluation of the current conditions and potential remediation alternatives that may be most appropriate for the site. The Regional Board staff anticipates that the final site assessment report will be completed by October 2004.

14. Jamacha Landfill Pilot Study (*Brian McDaniel and John Odermatt*)

The County of San Diego (County) owns the Jamacha Landfill, which contains approximately 1,800,000 tons of solid waste, located adjacent to the Sweetwater River. The Regional Board currently regulates the Jamacha Landfill through waste discharge requirements issued under Order No. 94-164 (and addenda thereto) and a cleanup and abatement Order (CAO No. 99-42) for pollution caused by a release of volatile organic constituents (VOCs) in groundwater. The County initiated a site-specific Evaluation Monitoring Program (EMP) pursuant to requirements of California Code of Regulations, Title 27, Sections 20385 and 20425. On October 8, 2003, the Regional Board received a Report of Waste Discharge (RWD) proposing the implementation of a pilot study to evaluate the effectiveness of in-situ bioremediation as a remediation technology for existing VOC impacts to groundwater. The pilot study will include the in-situ treatment of groundwater with a solution comprised of nutrients, a microbial culture, and a conservative tracer. The RWD proposes that the pilot study be conducted in the vicinity of existing groundwater monitoring wells for a period of 4 to 6 months.

By letter dated April 8, 2004, Regional Board staff determined the Report of Waste Discharge (RWD) for the Jamacha Landfill to be complete.

15. Proposed Gregory Canyon Landfill (*John Odermatt*) (*Attachment B-15*)

By letter dated May 7, 2004, the Regional Board staff informed Gregory Canyon Limited (GCL) their Joint Technical Document (or "JTD"), including a Report of Waste Discharge, was "conditionally complete" pending the future submittal of the following information:

- documentation for installation of additional ground water monitoring wells;

- results of aquifer pump tests of the proposed ground water monitoring network; and
- an acceptable demonstration that the proposed monitoring network will be able to provide the earliest detection of a release of waste constituents to ground water from the proposed solid waste management unit at Gregory Canyon.

Upon further discussion of this topic with our State Board OCC attorney, it was decided that the staff should inform the GCL that the Regional Board will not be able to develop appropriate waste discharge requirements (WDRs) for proposed discharges of municipal solid waste at the Gregory Canyon landfill without this information. On May 28, 2004, the Executive Officer issued a letter indicating that, notwithstanding the determination made in our letter dated May 7, 2004; the Regional Board finds that the JTD (including the revisions and amendments dated April 8, 2004) is incomplete. The Executive Officer's letter is included as Attachment B-15 to this item.

16. California Ocean Plan Exception—University of California Scripps Institution of Oceanography (*Michael McCann*)

UCSD Scripps Institution of Oceanography (Scripps) has requested of the State Water Resources Control Board (SWRCB) an exception to the California Ocean Plan for its existing discharge into the San Diego Marine Life Refuge Area of Special Biological Significance. The SWRCB has prepared a Negative Declaration setting forth the findings the proposed exception will not have a significant effect on the environment. The public review period on the Negative Declaration ends on June 7 and written comments on the proposed action are due by June 25. A public hearing is scheduled by the SWRCB for July 7, 2004.

The Regional Board had intended to review the information supporting the exception request prior to the SWRCB's July 7 hearing. But because the Regional Board would not be able to review the final report supporting the Negative Declaration prior to the SWRCB's consideration, the Regional Board will instead provide written staff comments to the SWRCB on the Negative Declaration's final report.

17. Duke Energy, South Bay Power Plant – Studies Workshop (*Hashim Navrozali*)

A public workshop was held on May 19, 2004 at the Regional Board office to enable Duke Energy, LLC (Duke Energy) and its contractors to present an overview of four studies conducted at the South Bay Power Plant (SBPP). The studies address compliance with Sections 316(a) and 316(b) of the Clean Water Act (CWA) and assess impacts of the SBPP discharge on the beneficial uses and water quality objectives of south San Diego Bay. Section 316(a) addresses thermal impacts from the plant's discharge and Section 316(b) addresses impacts from the cooling water intake. The contractors conducting the studies are Tenera Environmental and Merkel & Associates. Following is list of the four studies that were presented at the meeting:

- Updated Discharge Impact Assessment Study for Compliance with CWA Section 316(a).
- CWA Section 316(b) Updated Comprehensive Demonstration Study – Intake Structures.
- Updated Eelgrass Study.
- Updated Dissolved Oxygen Assessment Study.

Prior to the workshop, on April 30, 2004, copies of the draft technical reports associated with the studies were made available to resource agencies, environmental groups, and interested parties for their review. The studies are posted on the Regional Board's website.

The workshop was attended by representatives from resource and regulatory agencies, including the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Port of San Diego. Also in attendance were individuals from various environmental groups including the Sierra Club, the Environmental Health Coalition (EHC), and the San Diego BayKeeper. At the end of the presentations of the studies, the participants were given an opportunity to comment and ask questions.

The representatives from the Sierra Club and EHC had two significant comments that Duke Energy was urged to incorporate in the final version of the technical study reports. The Sierra Club requested Duke Energy to provide the rationale used in its selection of representative reference sites, as part of the CWA Section 316(a) study

Also, the EHC asked Duke Energy to conduct a Best Technology Available (BTA) analysis for its intake structures that is based on cost amortization over a long-term (i.e. 30 year period), as part of its CWA Section 316(b) study. The BTA analysis conducted by Duke Energy found alternate technologies not cost effective for controlling fish impingement and entrainment losses such as fine mesh traveling screens and cooling tower systems.

The participants at the workshop were requested to submit written comments on the studies to both the Regional Board and the contractors. The contractors very much appreciated the input provided and stated that they would consider adding further information to the studies to address issues raised at the workshop. The results of the studies and comments provided by the public on the studies will be helpful in the Regional Board's development of a renewal NPDES permit for the SBPP.

A tentative NPDES permit is scheduled to be available for public review and comment by June 18, 2004. It is expected that the tentative NPDES permit will be brought before the Regional Board for its consideration at the regularly scheduled August 11, 2004 meeting.

18. NPDES Permit Reissuance Schedule for Fiscal Year 2004-2005 (*Michael McCann*)

For the past 5 years the Regional Board has done very well in the timely reissuance of expired NPDES permits. NPDES permits, in effect for a maximum of 5 years, need to be

reissued upon their expiration. Of the San Diego Regional Board's 54 NPDES permits, there are currently only two expired permits that have not yet been reissued--Duke Energy Inc., South Bay Power Plant, and the IBWC International Wastewater Treatment/South Bay Ocean Outfall. At the regularly scheduled Board meeting on August 11, a tentative permit for Duke Energy will be considered by the Regional Board, but the IBWC South Bay Ocean Outfall renewal permit will remain on hold because of ongoing litigation over an appropriate time schedule for the construction of secondary treatment facilities.

In this next fiscal year, a total of 16 NPDES permits will expire. While this presents a considerable workload for the Board, the staff resources necessary to complete all the reissuances have been identified. To assist the Regional Board, the USEPA is expected to provide contract services for the reissuance of 8 of the 16 expired permits. In addition to the 16 scheduled reissuances, there are likely to be 5 new NPDES permits presented for adoption during the next fiscal year.

With a focused effort on NPDES permits this coming fiscal year, the Board should be able to complete all the scheduled reissuances and the adoption of 5 new NPDES permits.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. *Caulerpa taxifolia* Eradication and Prevention Activities (*Chiara Clemente & Bruce Posthumus*) (*Attachment C-1*)

Pursuant to SWRCB Resolution No. 2001-309, the SDRWQCB recently completed the tenth quarterly (January-March 2004) progress report to the SWRCB on efforts to eradicate infestations of the invasive non-native seaweed *Caulerpa taxifolia* and to prevent new infestations. A copy of the report is attached.